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STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

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December 8, 2008

Via OVERNIGHT DELIVERY

Michael Mukasey, Attorney General of the United States
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Mr. Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RECEIVED
2008 DEC 10 AM 6:33
OFFICE OF THE
EXECUTIVE SECRETARIAT

Re: ***Vornado Realty Trust v. Marubeni Sustainable Energy, Inc. et al.***
E.D.N.Y. Docket No.: 08 CV 4823

Dear Sirs:

This firm represents Vornado Realty Trust and its subsidiaries Alexander's Inc., Alexander's of Brooklyn, Inc, Alexander's Kings Plaza Center, Inc., and Alexander's Kings Plaza, LLC, collectively, ("Plaintiffs") in the above-referenced matter. Pursuant to the Resource Conservation and Recovery Act ("RCRA") § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), enclosed please find a copy of the Summons, Civil Cover Sheet, and Complaint for your service.

If you have any questions or concerns, please contact me at 212.506.3919. Thank you.

Very truly yours,



Daniel R. Lavoie

Enclosures

UNITED STATES DISTRICT COURT

VORNADO REALTY TRUST; ALEXANDER'S INC.;
ALEXANDER'S OF BROOKLYN, INC.; ALEXANDER'S
KINGS PLAZA CENTER, INC.; ALEXANDER'S
KINGS PLAZA, LLC.

Plaintiffs,

for the
EASTERN DISTRICT OF NEW YORK

-vs-

MARUBENI SUSTAINABLE ENERGY, INC. a/k/a
DG ENERGY SOLUTIONS LLC; DG INVESTORS LLC;
DG KINGS PLAZA LLC; CASTLTON ENVIRONMENTAL
CONTRACTORS, LLC; ENVIRON PRODUCTS, INC; HESS
CORPORATION; EMCOR GROUP, INC. d/b/a PENGUIN ELECTRIC;
HOP ENERGY, LLC d/b/a MADISON OIL;
IVI ENVIRONMENTAL, INC.

Defendants.

To: (Defendant's name and address)

)
) **CV-08-4823**
) Civil Action No.
)
)

Summons in a Civil Action **IRIZARRY, J.**

LORENSTEIN, M.J.

Please see attached.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ROBERT C. HEINEMANN

Date:

DEC 01 2008

Name of clerk of court

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

Proof of Service

I declare under penalty of perjury that I served the summons and complaint in this case on _____,
by:

(1) personally delivering a copy of each to the individual at this place, _____;
_____ ; or

(2) leaving a copy of each at the individual's dwelling or usual place of abode with _____
who resides there and is of suitable age and discretion; or

(3) delivering a copy of each to an agent authorized by appointment or by law to receive it whose name is
_____ ; or

(4) returning the summons unexecuted to the court clerk on _____ ; or

(5) other (specify) _____

_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

Date: _____

Server's signature

Printed name and title

Server's address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

VORNADO REALTY TRUST; ALEXANDER'S INC.;
ALEXANDER'S OF BROOKLYN, INC.; ALEXANDER'S
KINGS PLAZA CENTER, INC.; ALEXANDER'S KINGS
PLAZA, LLC.

Civil Action No.

Plaintiffs,

-vs-

MARUBENI SUSTAINABLE ENERGY, INC. a/k/a DG
ENERGY SOLUTIONS LLC; DG INVESTORS LLC; DG
KINGS PLAZA LLC; CASTLTON ENVIRONMENTAL
CONTRACTORS, LLC; ENVIRON PRODUCTS, INC;
HESS CORPORATION; EMCOR GROUP, INC. d/b/a
PENGUIN ELECTRIC; HOP ENERGY, LLC d/b/a
MADISON OIL; IVI ENVIRONMENTAL, INC.

Defendants.

Defendants' Names and Addresses

Marubeni Sustainable Energy, Inc., a/k/a DG Energy Solutions LLC, DG Kings Plaza, LLC,
and Defendant, DG Investors, LLC
708 Stokes Road, Suite A
Medford, NJ 08055

Castlton Environmental Contractors
80 West Nyack Road
Nanuet, NY 10954

Environ Products, Inc.
3250 US 70 Business West
Smithfield, NC 27577

Hess Corporation
1185 Avenue of the Americas
New York, NY 10036

EMCOR Group, Inc. d/b/a Penguin Electric
301 Merritt Seven
Norwalk, CT 06851

HOP Energy, LLC d/b/a Madison Oil
2125 Mill Avenue
Brooklyn, NY 11234

IVI Environmental, Inc.
105 Corporate Park Drive
White Plains, NY 10604

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

VORNADO REALTY TRUST; ALEXANDER'S INC.; ALEXANDER'S OF
BROOKLYN, INC.; ALEXANDER'S KINGS PLAZA CENTER, INC.;
ALEXANDER'S KINGS PLAZA, LLC.

(b) County of Residence of First Listed Plaintiff Bergen County, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Daniel R. Lavoie, Esq. (212) 506-3900
Steptoe & Johnson LLP, 750 Seventh Ave., New York, NY 10019

DEFENDANTS MARUBENI SUSTAINABLE ENERGY, INC. a/k/a DG ENERGY
SOLUTIONS LLC; DG INVESTORS LLC; DG KINGS PLAZA LLC; CASTLTON
ENVIRONMENTAL CONTRACTORS, LLC; ENVIRON PRODUCTS, INC.; HESS
CORPORATION; EMCOR GROUP, INC. d/b/a PENGUIN ELECTRIC; HOP ENERGY, LLC
d/b/a MADISON OIL; IVI ENVIRONMENTAL, INC.
County of Residence of First Listed Defendant Burlington County, NJ

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

IRIZARRY, J.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ PTF ☐ DEF ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ PTF ☐ DEF ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

J. ORENSTEIN, M.J.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	PERSONAL INJURY	PERSONAL INJURY	REAL ESTATE	LABOR	IMMIGRATION	OTHER
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 740 Railway Labor Act		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability				<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability					<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury					<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract						<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability						<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise						<input type="checkbox"/> 890 Other Statutory Actions
						<input type="checkbox"/> 891 Agricultural Acts
						<input type="checkbox"/> 892 Economic Stabilization Act
						<input checked="" type="checkbox"/> 893 Environmental Matters
						<input type="checkbox"/> 894 Energy Allocation Act
						<input type="checkbox"/> 895 Freedom of Information Act
						<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
						<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Recovery Act ("RCRA") § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B)

Brief description of cause:

reimbursement and/or contribution for environmental response costs

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$7,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/26/08

SIGNATURE OF ATTORNEY OF RECORD

Daniel R. Lavoie, Esq.

Daniel R. Lavoie

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ARBITRATION CERTIFICATION

I, Daniel R. Lavoie, Esq., counsel for Plaintiff do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. Equitable Relief other than monetary damages is sought.

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:
N/A

Please refer to NY-E Division of Business Rule 50.1(d)(2)

1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located in Nassau or Suffolk County? No

2.) If you answered "no" above:

a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes X

No _____

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

Yes _____ (If yes, please explain)

No X

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the civil rules).

ATTORNEY BAR CODE: DL 4896

E-MAIL Address: dlavoie@steptoe.com

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re Electronic Filing Procedures(EFP)", and consent to the electronic service of all papers.

Signature: Daniel R. Lavoie

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

VORNADO REALTY TRUST; ALEXANDER'S INC.;
ALEXANDER'S OF BROOKLYN, INC.; ALEXANDER'S
KINGS PLAZA CENTER, INC.; ALEXANDER'S KINGS
PLAZA, LLC.

Plaintiffs,

-VS-

MARUBENI SUSTAINABLE ENERGY, INC. a/k/a DG
ENERGY SOLUTIONS LLC; DG INVESTORS LLC; DG
KINGS PLAZA LLC; CASTLTON ENVIRONMENTAL
CONTRACTORS, LLC; ENVIRON PRODUCTS, INC;
HESS CORPORATION; EMCOR GROUP, INC. d/b/a
PENGUIN ELECTRIC; HOP ENERGY, LLC d/b/a
MADISON OIL; IVI ENVIRONMENTAL, INC.

Defendants,

Civil Action No.

CV-08-4823

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
DEC 01 2008 ★
BROOKLYN OFFICE

IRIZARRY, J.

LORENSTEIN, MJ.

COMPLAINT

Plaintiffs, by and through their attorneys, Steptoe & Johnson LLP, as and for its complaint against Defendants allege as follows:

NATURE OF THE ACTION

1. In this action, Plaintiffs seek, *inter alia*, indemnification, reimbursement and/or contribution for environmental response costs that Plaintiffs have expended, compensation for future environmental investigation and remedial costs, and property damages, caused or made necessary by the discharges (the "Discharges") of petroleum (the "Petroleum") at, under or emanating from the property at the Kings Plaza Shopping Center 5100 Kings Plaza, Brooklyn, New York 11234 (the "Site"), resulting in environmental contamination (the

“Contamination”), and a declaratory and injunctive relief requiring further investigation and cleanup of the Site by Defendants.

2. Plaintiffs bring this action pursuant to the Resource Conservation and Recovery Act (“RCRA”) § 7002(a) (1) (B), 42 U.S.C. § 6972(a) (1) (B), and various state law theories, including New York State Navigation Law Article 12 (the “Oil Spill Law”), contract law, common law and equitable theories.

THE PARTIES

3. That at all times hereinafter mentioned, Plaintiffs, Vornado Realty Trust and its subsidiaries Alexander’s Inc., Alexander’s of Brooklyn, Inc, Alexander’s Kings Plaza Center, Inc., and Alexander’s Kings Plaza, LLC, are a Real Estate Investment Trust organized under the laws of the state of Delaware, and duly qualified to do business in New York, with a principal place of business at 210 Route 4 East, Paramus, New Jersey 07652.

4. That, upon information and belief, at all times hereinafter mentioned, Defendants, Marubeni Sustainable Energy, Inc., a/k/a DG Energy Solutions LLC, DG Kings Plaza, LLC, and Defendant, DG Investors, LLC (collectively “DG”) were incorporated under the laws of the State of Delaware.

5. That, upon information and belief, at all times hereinafter mentioned, Defendant, Castlton Environmental Contractors, LLC (“Castlton”) was incorporated under the laws of the State of Delaware.

6. That, upon information and belief, at all times hereinafter mentioned, Defendant Environ Products, Inc. (“Environ”) was incorporated under the laws of the State of Delaware.

7. That, upon information and belief, at all times hereinafter mentioned, Defendant Hess Corporation ("Hess") was incorporated under the laws of the State of Delaware.

8. That, upon information and belief, at all times hereinafter mentioned, Defendant EMCOR Group, Inc. d/b/a Penguin Electric ("Penguin") was incorporated under the laws of the State of Delaware.

9. That, upon information and belief, at all times hereinafter mentioned, Defendant, HOP Energy, LLC d/b/a Madison Oil ("Madison") was incorporated under the laws of the State of Delaware.

10. That, upon information and belief, at all times hereinafter mentioned, Defendant, IVI Environmental, Inc. ("IVI") was incorporated under the laws of the State of Delaware.

JURISDICTION AND VENUE

11. This Court has personal jurisdiction over all defendants with respect to all Causes of Action of this Complaint, pursuant to Federal Rule of Civil Procedure 4(e) and under the New York Civil Practice Law and Rules §§ 301 and 302, because Defendants either directly, or through their divisions or agents, were or are doing business in New York, committed tortious acts in New York, or transacted business in New York with respect to the subject matter of this action.

12. Pursuant to RCRA § 7002(a) (1) (B), 42 U.S.C. § 6972(a) (1) (B), this Court has subject matter jurisdiction over the First Cause of Action of this Complaint per 28 U.S.C. § 1331.

13. This Court has supplemental jurisdiction over the state law claims in the other Causes of Action of this Complaint pursuant to 28 U.S.C. § 1367, since they arise out of a common nucleus of facts.

14. Venue is proper in this federal District Court pursuant to 28 U.S.C. § 1391, because the Site is located, and the events related to the claims occurred, within the Eastern District of New York.

15. In addition, the Declaratory Judgments Act, 28 U.S.C. § 2201, authorizes this Court to grant declaratory relief in this matter.

NOTICE

16. Pursuant to Section 3008(a) (2) of RCRA, 42 U.S.C. § 6972 (b) (2) (A), the required 90-day notice of the commencement of this action has been given to the Defendants, the Administrator of the U.S. Environmental Protection Agency, the Region 2 Administrator of the U.S. Environmental Protection Agency, and the Associate Counsel of the New York State Department of Environmental Conservation. Copies of all such notice letter are attached to this Complaint as Exhibit A.

FACTS

17. Plaintiffs, through its wholly-owned subsidiary, Alexander's Inc. ("Alexander's"), owns the Site, and Alexander's wholly-owned subsidiaries Alexander's of Brooklyn, Inc. ("AOB"), Alexander's Kings Plaza Center, Inc. and its successor Kings Plaza, LLC ("AKP"), operates the Kings Plaza Shopping Center (the "Shopping Center") at the Site, which sits upon an approximately 31-acre tract of land between Flatbush Avenue and Avenue U in Brooklyn, New York.

18. Since the Kings Plaza Shopping Center opened in 1969, the site incorporated a stand-alone onsite cogeneration plant, known as the Total Energy Plant, that supplies all electrical requirements as well as chilled and hot water required for air conditioning and heat.

19. The Total Energy Plant at the Site was fueled by a series of underground storage tanks ("USTs"), associated piping systems, and generators located on the roof of the Shopping Center.

20. In or about September 2000, Defendants IVI and Castlton designed and installed a new UST system that included four 15,000-gallon USTs and their associated piping and leak detection systems as part of an upgraded and new Total Energy Plant at the Site. The new USTs and associated piping system were installed on and under 55th Street, an access road located behind the Shopping Center.

21. Upon information and belief, Defendant Environ designed and manufactured the USTs, associated piping, and leak detection systems used and installed by Defendants IVI and Castlton as part of the new Total Energy Plant at the Site.

22. In or about April 2005, Plaintiffs, Alexander's, AOB, and AKP entered into a series of contracts with Defendant DG, which called for DG to own, operate, and maintain the new Total Energy Plant at the Site.

23. In or about April 2005, Defendant DG employed Defendant Penguin to supervise the day-to-day operations at the new Total Energy Plant at the Site.

24. Upon information and belief, at all relevant times, Defendant Hess delivered fuel oil to the site that was used to fuel the new Total Energy Plant.

25. Upon information and belief, at all relevant times, Defendant Madison delivered fuel oil to the site that was used to fuel the new Total Energy Plant.

26. On July 6, 2006, Plaintiffs discovered the Discharges of Petroleum at the Site.

27. On July 6, 2006, Plaintiffs notified the New York State Department of Environmental Conservation ("NYSDEC") of the Discharges of Petroleum and NYSDEC Spill Number 0603800 was assigned.

28. Plaintiffs contracted with Excel Environmental Resources, Inc. ("Excel") to conduct an emergency investigation to determine the source and cause of the Discharges of Petroleum.

29. Excel conducted an emergency investigation and identified a leak in a 3-inch diameter oil feed line that transferred heating oil from a UST Pump Room located adjacent to 55th Street to generators located on the roof of the Shopping Center.

30. After identifying the source of the leak, the UST system was taken out of service so the oil feed line could be repaired.

31. Contractors conducted repairs on the oil feed line, and conducted testing of the UST system, which verified that the repaired oil feed line was the source of the Discharges of Petroleum and that no other leaks were present in the UST system.

32. Since that time, Plaintiffs, through its environmental contractor, Excel, has been working with NYSDEC to effectively investigate and cleanup the Discharges of Petroleum in accordance with all applicable environmental standards.

33. As a direct and natural consequence of the Discharges, Petroleum flowed, drained, leached, or otherwise migrated into the ground on the Site, and either into, or in a

position to threaten to contaminate, the ground waters of the state, and thus caused the Contamination of the Site.

34. Upon information and belief, some or all of the Petroleum Discharges occurred in a sudden, accidental, unexpected and incremental manner.

35. Thus, as a direct, proximate, and natural consequence of the Discharges, the Contamination occurred, and health and/or the environment were threatened on the Site.

36. As a direct, proximate and natural consequence of the Discharges and the Contamination of the Site with Petroleum, Plaintiffs has undertaken environmental investigation of the Site, and removal, remediation and cleanup of the Contamination, and it will be necessary for Plaintiffs to incur additional costs to investigate, remove, remediate, clean up and respond to the Contamination.

**AS AND FOR A FIRST CAUSE OF ACTION TO ABATE AN IMMINENT AND
SUBSTANTIAL ENDANGERMENT PURSUANT TO RCRA § 7002(a)(1)(B),
ALLEGED AGAINST DEFENDANTS DG, CASTLTON, ENVIRON, HESS, PENGUIN,**

AND MADISON:

37. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "36" of this Complaint, as if more fully set forth herein.

38. Pursuant to RCRA § 1004(5), (27), 42 U.S.C. § 6903(5), (27), the Petroleum that was discharged is solid or hazardous waste.

39. Defendants, DG, Castlton, Environ, Hess, Penguin, and Madison are operators of the Site and/or generators and/or transporters of the Petroleum that contributed to the past handling of that solid or hazardous waste, which has resulted in the Contamination and presents an imminent and substantial endangerment to the environment.

40. Pursuant to RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), Defendants DG, Castlton, Environ, Hess, Penguin, and Madison should be directed to remediate the Contamination, abate this imminent and substantial endangerment, and pay Plaintiffs' litigation costs, including its attorneys' fees and expert witness fees.

AS AND FOR A SECOND CAUSE OF ACTION UNDER NAVIGATION LAW

SECTION 173 AND 181(5), ALLEGED AGAINST ALL DEFENDANTS:

41. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "40" of this Complaint, as if more fully set forth herein.

42. The Discharges were prohibited by New York Navigation Law §173.

43. Pursuant to Navigation Law § 181(5), Defendants are strictly liable for the investigation, remediation, cleanup, and removal, and response to, the Contamination, and all of Plaintiffs' associated direct and indirect damages, and this Court should direct Defendants to conduct any remedial activities that may be necessary as a result of the Contamination.

AS AND FOR A THIRD AND ALTERNATIVE CAUSE OF ACTION FOR

INDEMNIFICATION OR CONTRIBUTION AND A DECLARATORY JUDGMENT

UNDER NAVIGATION LAW ARTICLE 12, ALLEGED AGAINST ALL DEFENDANTS:

44. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "43" of this Complaint, as if more fully set forth herein.

45. Pursuant to Navigation Law Article 12, including Navigation Law § 176(8), Defendants are liable to indemnify or make contribution to Plaintiffs for its past and future costs of investigation, remediation, cleanup, and removal, and response, and are responsible for investigation, remediation, cleanup and removal of, and response to, the Contamination.

AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENCE,

ALLEGED AGAINST ALL DEFENDANTS:

46. Plaintiffs repeats and reallege the allegations of paragraphs "1" through "45" of this Complaint, as if more fully set forth herein.

47. Defendants, including their officers, agents, servants, employees, and/or lessees, owed a duty of care to Plaintiffs with regard to their use of the Site, design and installation of the USTs, associated piping and leak detection systems, operation and maintenance of the Total Energy Plant, delivery and storage of Petroleum, and their other activities on the Site.

48. Defendants, including their officers, agents, servants, employees, and/or lessees, acted unreasonably and negligently in causing the Discharges, or failing to take reasonable precautions necessary to avoid the Discharges, and those acts and omissions were the direct and proximate cause of the damages to Plaintiffs.

49. Defendants, by reason of this negligence, are liable for all of the damages to Plaintiffs, including damages to the Site, proximately caused by the Contamination, and investigation, remediation, cleanup, and removal of, and response to the Contamination.

AS AND FOR A FIFTH CAUSE OF ACTION FOR PRIVATE NUISANCE,

ALLEGED AGAINST ALL DEFENDANTS:

50. Plaintiffs repeats and reallege the allegations of paragraphs "1" through "49" of this Complaint, as if more fully set forth herein.

51. Defendants, including their officers, agents, servants, and/or employees, by causing the Discharges, failing to take reasonable precautions necessary to avoid the

Discharges, and operating the Site so as to cause the Discharges and Contamination, have unreasonably and substantially interfered with Plaintiffs' use of the Site.

52. As a result of this private nuisance, Defendants are liable for Plaintiffs' damages to the Site proximately caused by the Contamination, and investigation, remediation, cleanup, and removal of, and response to, the Contamination.

AS AND FOR A SIXTH CAUSE OF ACTION FOR BREACH OF CONTRACT,

ALLEGED AGAINST DEFENDANT DG:

53. Plaintiffs repeats and reallege the allegations of paragraphs "1" through "52" of this Complaint, as if more fully set forth herein.

54. Plaintiffs, through its wholly-owned subsidiary Alexander's, AOB, and AKP, entered into a series of contracts with Defendant DG, including an Energy Services Agreement, an Operating Agreement, and an Energy Guarantee Agreement.

55. Under these series of contracts, Defendant DG agreed to operate, use, overhaul, construct, service, test, improve, modify, alter, insure and maintain the new Total Energy Plant.

56. Under these series of contracts, Defendant DG also agreed to prevent the release of any Hazardous Substances at the Site.

57. Defendant DG breached these contracts by not procuring the required environmental insurance to cover the Site.

58. Defendant DG breached these contracts by allowing the Discharges of Petroleum as described herein.

AS AND FOR AN SEVENTH CAUSE OF ACTION FOR PRODUCTS LIABILITY,

ALLEGED AGAINST DEFENDANT ENVIRON

59. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "58" of this Complaint, as if more fully set forth herein.

60. Defendant Environ sold or provided the USTs, associated piping and leak detection systems to IVI and Castlton in a defective condition.

61. As a consequence of the defects in the USTs, associated piping and leak detection systems, Plaintiffs have sustained damages as described herein.

62. Environ, by virtue of the foregoing, is strictly liable to Plaintiffs for damages resulting from the defects of the USTs and associated piping.

AS AND FOR AN EIGHTH CAUSE OF ACTION FOR EQUITABLE OR IMPLIED

INDEMNIFICATION, ALLEGED AGAINST ALL DEFENDANTS:

63. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "62" of this Complaint, as if more fully set forth herein.

64. Defendants, including their officers, agents, servants, employees, and/or lessees, had a non-delegable duty to Plaintiffs to prevent, clean up or ensure against the Contamination of the Site.

65. As a result of the breach of this duty by Defendants, including their officers, agents, servants, employees, and/or lessees, Defendants are responsible for Plaintiffs' past and future expenses and damages in investigation, remediation, cleanup, and removal of, and response to, the Contamination, and as a result, Defendants should, in equity, indemnify Plaintiffs for some or all of their expenses, costs, and damages.

AS AND FOR AN NINTH CAUSE OF ACTION FOR RESTITUTION,

ALLEGED AGAINST ALL DEFENDANTS:

66. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "65" of this Complaint, as if more fully set forth herein.

67. It would be against equity and good conscience to permit Defendants to pass the burden of cleaning up the Contamination to Plaintiffs, and to have had the benefit of enjoyment of the use of, or work on, the Site free of any responsibility for investigation, remediation, cleanup, and removal of, and response to, the Contamination.

68. Therefore, Defendants should make restitution to Plaintiffs for some or all of their expenses, costs, and damages.

WHEREFORE, Plaintiffs demand judgment against defendants as follows:

- a. Awarding plaintiff compensatory damages in the amount of approximately \$7,000,000 with interest.
- b. Granting a permanent injunction ordering defendants to investigate the Contamination, and remove, remediate, clean up and respond to all of the Petroleum and Contamination from the Site, the Adjoining Parcel, and the vicinity of the Site.
- c. Awarding Plaintiffs their litigation costs, including its attorneys' fees and expert witness fees.
- d. Awarding such other damages and further relief as this Court deems just and proper.

Dated: November 26, 2008,

STEPTOE & JOHNSON LLP

By: Daniel R. Lavoie

Daniel R. Lavoie

750 Seventh Avenue

New York, NY 10019

(212) 506-3919

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Attorney Work Product

November 6, 2006

VIA CERTIFIED MAIL

Terry Williams
Executive Vice President
DG Energy Solutions, LLC
708 Stokes Road, Suite A
Medford, NJ 08055

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sir/Madam:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, as of January 2006, DG Energy Solutions, LLC ("DG Energy") entered into an agreement with Vornado to operate the

Terry Williams
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
November 6, 2006

Total Energy Plant, including four recently installed 15,000 double-walled steel underground storage tanks ("USTs") in late 2000. Further to our understanding, on or about April 4, 2006, an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill").

The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by DG Energy.

The purpose of this letter is to provide DG Energy with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado Realty Trust may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,



Andrew J. Perel

AP

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November 6, 2006

VIA CERTIFIED MAIL

Perry Zenion
General Manager
Castlton Environmental Contractors, LLC.
80 West Nyack Road
Nanuet, NY 10954

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, on or about August 2000, Castlton Environmental Contractors, Inc. ("Castlton") was subcontracted by IVI

Perry Zenion
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
November 6, 2006

Environmental Services, Inc. to provide construction plans for the Total Energy Plant installed at the Kings Plaza Shopping Center on the behalf of Vornado. The construction plans included the installation of four new 15,000 double-walled steel underground storage tanks ("USTs") in late 2000. Further to our understanding, on or about April 4, 2006, an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill").

The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by Castlton.

The purpose of this letter is to provide Castlton with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,


Andrew J. Perel

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November 6, 2006

VIA CERTIFIED MAIL

Patrick Schultz
President
Environ Products, Inc.
3250 US 70 Business West
Smithfield, NC 27577

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, in late 2000, Environ Products, Inc. ("Environ") manufactured double-walled subsurface piping and fittings used by

Patrick Schultz
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
November 6, 2006

IVI Environmental Services, Inc. in the installation of the four new 15,000 double-walled steel underground storage tanks ("USTs") at Kings Plaza Shopping Center. Further to our understanding, on or about April 4, 2006, an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill").

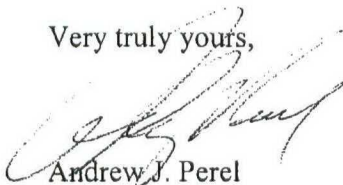
The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by Environ.

The purpose of this letter is to provide Environ with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado Realty Trust may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,



Andrew J. Perel

AJP

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November 6, 2006

VIA CERTIFIED MAIL

J. Barclay Collins II
General Counsel
Hess Corporation
1185 Avenue of the Americas
New York, NY 10036

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, from March 2006, Hess Corporation delivered oil that was fed into four recently installed 15,000 double-walled steel

Andrew J. Perel Tel 212 504 6656 Fax 212 504 6666 andrew.perel@cwt.com
USActive 5896011.2

J. Barclay Collins II
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
November 6, 2006

underground storage tanks ("USTs"). Further to our understanding, on or about April 4, 2006, an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill").

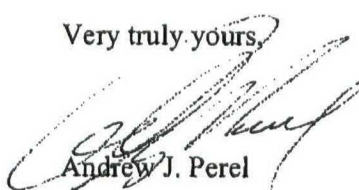
The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by Hess Corporation.

The purpose of this letter is to provide Hess Corporation with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado Realty Trust may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,



Andrew J. Perel

AJP

cc: CT Corporation System, registered agent in New York

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December 21, 2006

VIA REGISTERED MAIL

Mr. Sheldon I. Cammaker, Esq.
General Counsel
EMCOR Group, Inc.
Corporate Headquarters
301 Merritt Seven
Norwalk, CT 06851

Re: Kings Plaza Shopping Center, Brooklyn, NY

Dear Mr. Cammaker,

This Firm represents Vornado Realty Trust, the owner of the Kings Plaza Shopping Center. Enclosed please find a copy of a letter dated December 7, 2006, to Seth Szold of Penguin Electric regarding the above referenced property.

The attached letter provides notice to Penguin Electric pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972.

If you would like to discuss this matter, please contact Brian Chebli at (212) 504-6883, John Halski at (212) 504-5704, or me.

Very truly yours,



Andrew J. Perel

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December 7, 2006

VIA CERTIFIED MAIL

Seth Szold
Penguin Electric
26 West Street
Brooklyn, NY 11222

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, Penguin Electric provided and continues to provide onsite supervision of the Total Energy Plant ("TEP") at Kings Plaza Shopping Center, including four 15,000 double-walled steel underground storage tanks

Andrew J. Perel Tel 212 504 6656 Fax 212 504 6666 andrew.perel@cw.com
USActive 6469415.1

Seth Szold
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
December 7, 2006

("USTs") installed in late 2000. Further to our understanding, as of January 2006, when Vornado entered into a separate agreement with DG Energy Solutions, LLC ("DG Energy"), Penguin Electric was retained by DG Energy to provide advisement on the operation of the TEP. On or about April 4, 2006, it is believed that an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill"). The Kings Plaza Oil Spill was discovered on or about July 2006, and shortly thereafter, the New York State Department of Environmental Conservation ("DEC") received notification and a case file was opened. The DEC case number is 0603800, and the case manager is Ioana Munteanu-Ramnic. Remediation has begun at the site, as overseen by Excel Environmental Resources, Inc.

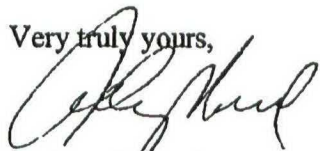
The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by Penguin Electric.

The purpose of this letter is to provide Penguin Electric with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado Realty Trust may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Seth Szold
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
December 7, 2006

Very truly yours,

Andrew J. Perel

AP

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December 7, 2006

VIA CERTIFIED MAIL

Ms. Andrea Peres
Madison Oil
2125 Mill Avenue
Brooklyn, NY 11234

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Madam/Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, Madison Oil had delivered oil that was fed into four recently installed 15,000 double-walled steel underground storage tanks ("USTs"). Further to our understanding, on or about April 4, 2006, it is believed that an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room,

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USActive 5896037.2

Madison Oil
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
December 7, 2006

which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill"). The Kings Plaza Oil Spill was discovered on or about July 2006, and shortly thereafter, the New York State Department of Environmental Conservation ("DEC") received notification and a case file was opened. The DEC case number is 0603800, and the case manager is Ioana Munteanu-Ramnic. Remediation has begun at the site, as overseen by Excel Environmental Resources, Inc.

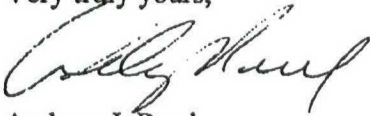
The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by Madison Oil.

The purpose of this letter is to provide Madison Oil with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado Realty Trust may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,



Andrew J. Perel

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New York London Charlotte Washington Beijing

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November 6, 2006

VIA CERTIFIED MAIL

Ms. Linda A. Bryson
Vice President
IVI Environmental, Inc.
Suite 115
105 Corporate Park Drive
White Plains, NY 10604-3814

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3000
Washington, DC 20460

Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

Nathaniel Barber
Associate Counsel
New York State Department of Environmental Conservation,
Division of Environmental Enforcement
625 Broadway
Albany, NY 12233-5500

Re: RCRA § 7002 Notification of Imminent and Substantial Endangerment and
Other Violations Related to Kings Plaza Shopping Center Oil Spill

Dear Sirs:

This Firm represents Vornado Realty Trust ("Vornado"), the owner of the Kings Plaza Shopping Center in Brooklyn, NY. According to our information, IVI Environmental

Ms. Linda A. Bryson
Stephen L. Johnson
Alan J. Steinberg
Nathaniel Barber
November 6, 2006

Services, Inc. ("IVI") performed environmental remediation on behalf of Vornado at Kings Plaza Shopping Center beginning in June 1998, including the installation of four new 15,000 double-walled steel underground storage tanks ("USTs") in late 2000. Further to our understanding, on or about April 4, 2006, an oil leak began at an elbow joint pipe near the Kings Plaza Shopping Center Control Room, which spilled oil from the USTs into the soil (cumulatively, "Kings Plaza Oil Spill").

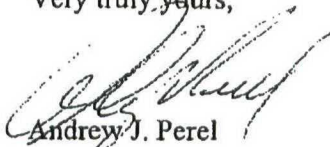
The Kings Plaza Oil Spill constituted an imminent and substantial endangerment as such term applies pursuant to Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972. *See Conn. Coastal Fisherman's Ass'n v. Remington Arms Co., Inc.*, 989 F.2d 1305 (2nd Cir. 1993). We believe that the Kings Plaza Oil Spill contaminated the shopping center and may have threatened the health and physical safety of customers and employees of the Kings Plaza Shopping Center. Moreover, to the extent that the Kings Plaza Oil Spill constituted a hazardous waste as defined in Part 261 of Title 40 of the Code of Federal Regulations, such hazardous wastes may have been illegally treated, stored, and/or disposed of by IVI.

The purpose of this letter is to provide IVI with notice pursuant to RCRA Section 7002 that, on or after 90 days from the receipt of this letter, Vornado may file suit under Section 7002 against it and any other person who contributed to the installation, repair, or maintenance of the UST system who contributed either by action or inaction to the Kings Plaza Oil Spill.

Additionally, this letter serves the purpose of advising you that we would be willing to meet with you at our offices at One World Financial Center, New York, NY, to discuss the problems presented by the Kings Plaza Oil Spill and plans for possible remediation. If we do not hear from you within 90 days of this letter, Vornado will pursue all available remedies.

If you have any questions concerning this matter, or would like to discuss this with me, please call John Halski at (212) 504-5704.

Very truly yours,



Andrew J. Perel

AJP